



Federal Communications Commission  
Washington, D.C. 20554

February 15, 2007

DA 07-680

Emma P. Kostenbauder  
239 Mennella Road  
Poughquag, NY 12570-5024

Re: File No. 0002579450

Dear Ms. Kostenbauder:

This letter is in response to your request for waiver of Section 97.19(c)(2) of the Commission's Rules<sup>1</sup> filed in association with the above-referenced application. You request a waiver so that the call sign W2AWX, which was formerly assigned to your husband's amateur station, may be immediately assigned as a vanity call sign to your amateur radio station. For the reasons discussed herein, we deny your request and will dismiss the application.

By way of background, Section 97.19(c)(2) provides that a call sign shown on a surrendered or canceled amateur station license grant is not available to the vanity call sign system for two years following the date the license grant is surrendered or canceled. The effect of this rule is to establish a two-year "hold" period during which the previously assigned call sign is not available for assignment to other amateur stations as a vanity call sign. Exceptions to the two-year waiting period are provided, however, for former holders of the call sign and for close relatives to obtain the call sign of a deceased licensee.<sup>2</sup>

The above-referenced application seeks to modify your license for Amateur Radio Service Station WA2ZCQ to change the call sign to W2AWX, which was formerly held by your husband. Mr. Kostenbauder surrendered that call sign on April 25, 2006, when he obtained an amateur radio station license under call sign W2LW.<sup>3</sup> You requested a waiver of Section 97.19(c)(2) on May 4, 2006. Specifically, attached to your application is a letter from Mr. Kostenbauder requesting that his former call sign be reassigned to you, even though he is not yet deceased.

Under the circumstances presented, allowing the call sign W2AWX to be reassigned prior to two years following cancellation or surrender would require a waiver of Section 97.19(c)(2). Section 1.925(b)(3) of the Commission's Rules provides that we may grant a waiver when (i) the underlying purpose of the rule(s) would not be served or would be frustrated

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<sup>1</sup> See 47 C.F.R. § 97.19(c)(2).

<sup>2</sup> See 47 C.F.R. § 97.19(c)(3); Amendment of the Amateur Service Rules to Implement a Vanity Call Sign System, *Second Memorandum and Order*, PR Docket No. 93-305, 11 FCC Rcd 5283, 5283 ¶ 2 (1996).

<sup>3</sup> See FCC File No. 0002563991 (filed Apr. 7, 2006).

by application to the present case and grant of the requested waiver would be in the public interest, or (ii) in view of unique or unusual circumstances of the case, application of the rule would be inequitable, unduly burdensome or contrary to the public interest, or the applicant has no reasonable alternative.<sup>4</sup> We have reviewed your request and conclude that grant of a waiver is not warranted.

We note that when the rules for the vanity call sign system were adopted, the two-year hold period was shown to be necessary in order to, among other reasons, preclude situations where a licensee vacates a desirable call sign so that another licensee can immediately apply for it before its assignability becomes known generally.<sup>5</sup> The Commission recently reiterated that a licensee may not direct the assignment of his or call sign for use by another licensee prior to his or her death.<sup>6</sup> Further, you have not set forth any unique or unusual circumstances that prevent you from waiting two years, as must every other amateur service licensee not excepted by Section 97.19(c)(3), before being eligible to apply for a surrendered or canceled call sign. That you and your husband both want you to hold his former call sign is not, by itself, sufficient justification to waive the rule. To the contrary, it appears that many amateur radio operators have spouses or other relatives who also are amateur service licensees, and would like their former call sign to remain “in the family.” We conclude that you have not demonstrated that a grant of the requested relief is warranted under the circumstances presented, and we therefore deny your request to waive Section 97.19(c)(2) to make the call sign W2AWX available to the vanity call sign system at this time.

Accordingly, IT IS ORDERED that, pursuant to Section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. § 154(i), and Section 1.925 of the Commission’s Rules, 47 C.F.R. § 1.925, the request for waiver filed by Emma Kostenbauder on May 4, 2006 IS DENIED, and application FCC File No. 0002579450 SHALL BE DISMISSED.

This action is taken under delegated authority pursuant to Sections 0.131 and 0.331 of the Commission's Rules, 47 C.F.R. §§ 0.131 and 0.331.

FEDERAL COMMUNICATIONS COMMISSION

Scot Stone  
Deputy Chief, Mobility Division  
Wireless Telecommunications Bureau

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<sup>4</sup> 47 C.F.R. § 1.925(b)(3).

<sup>5</sup> See Amendment of the Amateur Service Rules to Implement a Vanity Call Sign System, *Report and Order*, PR Docket No. 93-305, 10 FCC Rcd 1039 ¶ 11 (1995).

<sup>6</sup> See Amendment of Part 97 of the Commission’s Rules Governing the Amateur Radio Services, *Report and Order*, WT Docket No. 04-140, 21 FCC Rcd 11643, 11661 ¶ 31 (2006).